

Alan F. Ciamporero
Executive Director

Federal Regulatory Relations
1275 Pennsylvania Avenue, N.W., Suite 1100
Washington, D.C. 20004
(202) 383-6416

EX PARTE OR LATE FILED

PACIFIC  TELESIS
Group-Washington

RECEIVED

OCT - 6 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

October 6, 1994

DOCKET FILE COPY ORIGINAL

EX PARTE

William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Mr. Caton:

Re: *GN Docket No. 93-252 - Implementation of Sections 3(n) and 332 of the Communications Act; Regulatory Treatment of Mobile Services*

On behalf of Pacific Bell and Pacific Bell Mobile Services, please find enclosed an original and six copies of their "Ex Parte Comments" in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,


Jef

Enclosures

No. of Copies rec'd
List A B C D E

045

RECEIVED

OCT - 6 1994

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Implementation of Sections 3(n)
and 332 of the Communications Act

Regulatory Treatment of Mobile
Services

GN Docket No. 93-252

**EX PARTE COMMENTS OF PACIFIC BELL AND
PACIFIC BELL MOBILE SERVICES¹**

On September 26, 1994 the Department of Justice ("DOJ") filed ex parte comments relating to the Second Further Notice of Proposed Rulemaking in the above-captioned proceeding. In its comments the DOJ recommended that the Commission treat certain non-equity relationships such as management contracts as attributable interests for the purposes of various spectrum caps.² DOJ says that management contracts which allow a party to determine or significantly influence prices or specific

¹ Two copies of this ex parte presentation have been mailed under separate cover to Mr. William Caton, Commission Secretary.

² DOJ, p. 6.

service offerings for two or more CMRS licensees in a single geographic market should be attributable.

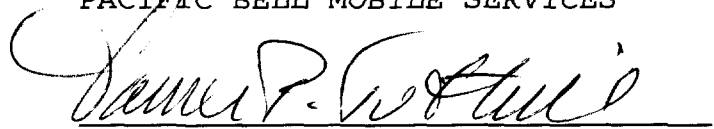
We understand and support the DOJ's desire to address possible anti-competitive effects of joint marketing and management agreements and relationships. However, the standard DOJ proposes is so vague that it may have the opposite effect and deter entities from entering pro-competitive agreements. Specifically, how would the Commission or PCS licensees determine whether an agreement gives one licensee the power to "substantially influence" the prices or services of another licensee?

If the Commission intends to adopt the DOJ's recommendation, it must provide more specific criteria relating to its determination of what provisions of an agreement constitute a substantial influence over prices or services. In addition, PCS licensees that are experienced operators may wish to offer technical assistance to other PCS licensees in the same territory. Such limited agreements would have pro-competitive rather than anti-competitive results because they would strengthen new entrants to the telecommunications industry such as Designated Entities. The Commission should make it clear

that agreements to provide technical assistance are non-attributable interests.

Respectfully submitted,

PACIFIC BELL
PACIFIC BELL MOBILE SERVICES

A handwritten signature in cursive script, appearing to read "James P. Tuthill", written over a horizontal line.

JAMES P. TUTHILL
BETSY STOVER GRANGER

140 New Montgomery St., Rm. 1525
San Francisco, California 94105
(415) 542-7649

JAMES L. WURTZ

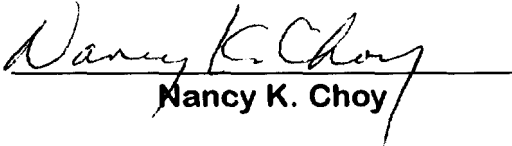
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 383-6472

Their Attorneys

Date: October 6, 1994

CERTIFICATE OF SERVICE

I, Nancy K. Choy, do hereby certify that a copy of the foregoing Ex Parte Comments of Pacific Bell and Pacific Bell Mobile Services re GN Docket No. 93-252, was hand-delivered or mailed via first class United States mail, postage prepaid, on this 6th day of October, 1994, to the parties on the following list.


Nancy K. Choy

**Service List
GN Docket No. 93-252**

William Caton, Commission Secretary*
Federal Communications Commission
Washington, D.C. 20554

Reed Hundt, Chairman*
Federal Communications Commission
Washington, D.C. 20554

Andrew C. Barrett, Commissioner*
Federal Communications Commission
Washington, D.C. 20554

Rachelle B. Chong, Commissioner*
Federal Communications Commission
Washington, D.C. 20554

Paula J. Fulks
175 E. Houston
Room 1218
San Antonio, TX 78205
Counsel for Southwestern Bell
Corporation

Jay C. Keithley
1850 M Street, N.W., Suite 1100
Washington, D.C. 20036
Counsel for Sprint Corporation

William B. Wilhelm, Jr.
Cohn and Marks
1333 New Hampshire Avenue, N.W.
Suite 600
Washington, D.C. 20036
Counsel for National Cellular
Resellers Association

Susan Ness, Commissioner*
Federal Communications Commission
Washington, D.C. 20554

James H. Quello, Commissioner*
Federal Communications Commission
Washington, D.C. 20554

Greg Rosston*
Office of Plans & Policy
Federal Communications Commission
Washington, D.C. 20554

Leila Brown*
Mobile Services Division
Common Carrier Bureau
Federal Communications Commission
Washington, D.C. 20554

Caressa D. Bennet
2120 L Street, N.W., Suite 520
Washington, D.C. 20037
Regulatory Counsel for Rural Cellular
Association

Andre J. Lachance
1850 M Street, N.W., Suite 1200
Washington, D.C. 20036
Counsel for GTE Service Corporation

Cathleen A. Massey
Senior Regulatory Counsel
McCaw Cellular Communications, Inc.
1150 Connecticut Avenue, N.W.
4th Floor
Washington, D.C. 20036

***Hand Delivered**

Raymond G. Bender, Jr.
Dow, Lohnes & Albertson
1255 23rd Street, N.W., Suite 500
Washington, D.C. 20037
Counsel for Vanguard Cellular
Systems, Inc.

William J. Franklin, Chartered
1919 Pennsylvania Avenue, N.W.
Suite 300
Washington, D.C. 20006-3404
Counsel for Simrom, Inc.

Lewis J. Paper
Keck, Mahin & Cate
1201 New York Avenue, N.W.
Washington, D.C. 20005-3919
Counsel for Cellular Service, Inc.

William J. Franklin, Chartered
1919 Pennsylvania Avenue, N.W.
Suite 300
Washington, D.C. 20006-3404
Counsel for PCC Management Corp.

Michael F. Altschul
Vice President/General Counsel
Cellular Telecommunications
Industry Association
1250 Connecticut Avenue, N.W.
Suite 200
Washington, D.C. 20036

Lon C. Levin
Vice President and Regulatory Counsel
American Mobile Satellite Corporation
10802 Park Ridge Boulevard
Reston, VA 22091

John S. Fischer
Vice President of Legal Affairs
LCC, L.L.C.
2300 Clarendon Boulevard, Suite 800
Arlington, VA 22201

Eliot J. Greenwald
Fisher, Wayland, Cooper, Leader &
Zaragona L.L.P.
2001 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20006
Counsel for PlusCom, Inc.

William J. Balcerski
120 Bloomingdale Road
White Plains, NY 10605
Counsel for NYNEX Corporation

Deborah R. Maisel, Attorney
Communications and Finance Section
U.S. Department of Justice
555 Fourth Street, N.W.
Washington, D.C. 20001

Mary E. Brooner
Manager, Wireless Regulatory Policies
Motorola, Inc.
1350 I Street, N.W.
Washington, D.C. 20005

Joe D. Edge
Drinker, Biddle & Reath
901 Fifteenth Street, N.W., Suite 900
Washington, D.C. 20005
Counsel for Puerto Rico Telephone
Company

John A. Malloy
General Counsel
Columbia PCS, Inc.
201 N. Union Street, Suite 410
Alexandria, VA 22314

Elizabeth R. Sachs
Lukas, McGowan, Nace & Gutierrez
1819 H Street, N.W., Suite 700
Washington, D.C. 20006
Counsel for American Mobile
Telecommunications Association, Inc.

James L. Winston
Rubin, Winston, Diercks, Harris & Cooke
1730 M Street, N.W., Suite 412
Washington, D.C. 20036
Counsel for The National Association
of Black Owned Broadcasters, Inc.

Laura L. Holloway
General Attorney
Nextel Communications, Inc.
800 Connecticut Avenue, N.W.
Suite 1001
Washington, D.C. 20006

David Cosson
2626 Pennsylvania Avenue, N.S.
Washington, D.C. 20037
Counsel for the National Telephone
Cooperative Association

Jim O. Llewellyn
BellSouth Corporation
1155 Peachtree Street, N.E.
Atlanta, GA 30309-3610

Ronald E. Blaylock, President
ROMGAT Communication, LP
245 Park Avenue, 17th Floor
New York, NY 10167

Gerald S. McGowan
Lukas, McGowan, Nace & Gutierrez
1819 H Street, N.W., Suite 700
Washington, D.C. 20006
Counsel for Dial Page, Inc.